

OGC Has Reviewed

Approved For Release 2003/12/03 : CIA-RDP76M00527R000700230061-2

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17 January 1974

Summary Review of H. R. 12004

1. The purpose of this Bill is "to amend Section 552 of Title 5, U. S. Code (known as the Freedom of Information Act) to provide for the classification and declassification ^{of official information} in the interest of national defense."

The Bill would add four new subsections covering (a) a classification system similar to that of E.O. 11652, (b) a declassification system, (c) a new supervisory mechanism (a "Classification Review Commission"), and (d) the mechanics for supplying Congress and the Comptroller-General with classified information if requested (some limitations are included).

2. The ~~concept~~ basic concept of the type of information which ^{(Concept idea of} information" should be classified differs from the "national security" ~~concept~~ definitions in the Executive Order and reverts to the older concept of "national defense information". Thus ~~there is no~~ the Bill contains no provisions for the protection of material bearing on the conduct of foreign relations, and ~~there is~~ no recognition of any need for such protection.

3. The proposed three-level classification system does not differ significantly from that ^{contained in} E.O. 11652, though no examples of classifiable items are provided. The number of departments/agencies authorized to ^{at the} classify Top Secret level is reduced from 12 to 7; at the Secret level from 13 to 3; and two agencies ^{could classify only} would have it at the Confidential level ^{none are so listed} (there are none in the E.O.).

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4. The limits of downward delegation of classifying authority within agencies ^{are} is not changed significantly, but two requirements would pose an undesirable burden on the head of any agency: (a) the provision that such head must authorize all delegations of classifying authority in his agency, and (b) that he must review them on a semiannual basis for continuing need. In addition to the present requirement to maintain lists of all authorized classifiers, the Bill provides for quarterly submission of such lists to the new "Classification Review Commission" and, on request, to committees of Congress or the Comptroller-General.

5. National defense information provided by foreign governments or international agencies is protected by ^{the provision for} equivalent classification, but a real problem comes up in that such information may not be denied to Congress because of such classification.

6. The proposed new schedule for declassification would sharply ^{accelerate} the process by downgrading at 12-month intervals from Top Secret to ^{Secret to Confidential to} declassified. Only certain ~~types~~ ^{are} categories of Top Secret information ~~is~~ ^{are} exempted from this schedule:

- a. that specifically exempted from disclosure by statute;
- b. that pertaining to cryptographic systems;
- c. that which discloses intelligence sources or methods; and
- d. that which would "disclose a defense plan, project, or other specific defense matter" the disclosure of which could cause "exceptionally grave damage to the national defense of the U.S."

It is not clear whether the Agency's information, sources and methods would still be sufficiently protected under the National Security and CIA Acts of 1947 and 1949. Covert action operations would appear to be unprotected by ~~from~~ the new declassification schedule, unless "methods" is construed very broadly.

7. The Agency would certainly object strongly to the procedures for handling the ~~downgrading~~ downgrading of exempted Top Secret information. These call for downgrading to Secret after 12 months, followed by transfer ^{of the information} to the "Classification Review Commission", which ^{would} determine the pace of further downgrading. A Presidential intervention ^{request would be} is required to extend the Secret classification beyond a maximum of four years, but the Commission ^{could} can by a two-thirds vote of all nine members override ^{such a} a Presidential request. Also the Bill is not clear as to what happens if the Commission does not vote to extend the Secret classification through the first four years.

8. The proposed Classification Review Commission differs considerably from the present Interagency Classification Review Committee. The nine-member Commission would be appointed by the President, with ^{the} Senate's "advice and consent", and with input from the Speaker of the House and the President pro tempore of the Senate. There is no requirement for any expertise or

16 also mentions the existing docs -
Details?
Workload?

3 - from Senate's list
3 - from House's list
3 - President

^{on the part of Commission members,}
familiarity[^] with classified information or the agencies producing same.

9. The Commission ^{would} ~~shall~~ prescribe standards and procedures for handling classified information. ^{These provisions} ~~This~~ seems to be in conflict with the Director's statutory responsibilities. Among the procedures ~~xxx~~ is a provision that there shall be no withholding of such information from Congress. ^

10. The Commission would have subpoena powers to require attendance and testimony of witnesses; it would publish annual reports of its activities and make available its proceedings for public inspection; and it would make continuing investigations/appraisals of the policies, procedures and operations of agencies which classify info. All of these pose real problems for the Agency.

11. On vote of at least 3 members, the Commission shall investigate allegations of improper classification of info and failure[^] ^{of agencies,} to comply with the Commission's orders or directives. This is potentially troublesome for the Agency.

12. The Commission shall "furnish to Congress, committees of Congress, and the Comptroller-General, upon request, certain classified information necessary for Congress to discharge fully and properly all of its constitutional responsibilities." This ^{could} ~~is~~ obviously ^{be} a real problem for the Agency.

13. Section (g) contains lengthy procedures for handling requests from Congress, committees of Congress, and the Comptroller-General for classified information. If an agency objects to the release of requested information, the Commission will conduct an investigation and weigh the extent to which Congress needs the information against the dangers to the U. S. from the disclosure of same. At the Commission hearing, each party may submit evidence, rebut other evidence, and cross-examine other witnesses. The Committee's decision shall be announced within 3 calendar working days after the hearing.

14. The Commission may issue an order prescribing the terms and conditions necessary to protect the information. Judicial appeal by either party is via the U.S. Court of Appeals in D.C., only, and the Supreme Court.

15. Section 4 of the Bill states that "it is the sense of the Congress that the President. . . shall keep Congress fully and currently informed with respect to all of the activities of agencies covered under this Act." If CIA is covered under this proposed Act, could we protect our sources and methods?

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